



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

SEP 29 2009

REPLY TO THE ATTENTION OF:

(AE-17J)

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Ann Murtlow, President and CEO
Indianapolis Power & Light Company
1 Monument Circle
Indianapolis, Indiana 46204

Re: Notice and Finding of Violation issued to Indianapolis Power & Light Company
Harding Street, Eagle Valley and Petersburg Generating Stations

Dear Ms. Murtlow:

The U.S. Environmental Protection Agency is issuing the enclosed Notice of Violation and Finding of Violation (Notice) to Indianapolis Power & Light Company (IPL). This Notice is issued in accordance with Section 113(a) of the Clean Air Act (the Act), 42 U.S.C. § 7413(a).

EPA has determined that IPL is violating the Prevention of Significant Deterioration requirements under Part C of the Act, 42 U.S.C. §§ 7470 *et seq.*; Non-attainment New Source Review requirements under Part D of the Act, 42 U.S.C. §§ 7501 *et seq.*; New Source Performance Standards under Section 111 of the Act, 42 U.S.C. §§ 7411 *et seq.*; State Implementation Plan (SIP) provisions approved by EPA under Section 110 of the Act, 42 U.S.C. § 7410; and Operating Permit requirements under Title V of the Act, 42 U.S.C. §§ 7661 *et seq.*, at its Harding Street, Eagle Valley and Petersburg Generating Stations.

EPA is offering IPL an opportunity to confer with us about the violations cited in the Notice. The conference will give you an opportunity to present information on the specific findings of violations, and the steps you will take to bring the facilities into compliance. Please plan for IPL's technical and management personnel to attend the conference to discuss compliance measures and commitments. You may have an attorney represent you at this conference.

The EPA contacts in this matter are Julie Morris and Shilpa Patel. You may call them at (312) 886-0863 or (312) 886-0120, respectively, to request a conference. You should make your request for a conference no later than 10 calendar days after you receive this letter, and we should hold any conference within 30 calendar days of your receipt of this letter.

Sincerely,

A handwritten signature in black ink, appearing to read "Cheryl L. Newton".

Cheryl L. Newton
Director
Air and Radiation Division

Enclosure

cc: Phil Perry, Chief
Office of Enforcement
Indiana Department of Environmental Management

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

IN THE MATTER OF:

Indianapolis Power & Light
Company

Eagle Valley Station
Martinsville, Indiana

Harding Street Station
Indianapolis, Indiana

Petersburg Station
Petersburg, Indiana

**Proceedings Pursuant to
Section 113(a)(1) and (a)(3) of the
Clean Air Act,
42 U.S.C. §7413(a)(1) and (a)(3)**

EPA-5-09-IN-22

NOTICE OF VIOLATION AND FINDING OF VIOLATION

This Notice of Violation and Finding of Violation (Notice) is issued to Indianapolis Power & Light Company (IPL), for violations of the Clean Air Act (Act), 42 U.S.C. §§ 7401 *et seq.*, at the following three coal-fired electric generating facilities located in Indiana: Harding Street (formerly Elmer W. Stout), Eagle Valley (formerly H.T. Pritchard) and Petersburg Generating Stations.

This Notice is issued pursuant to Sections 113(a)(1) and (a)(3) of the Act, 42 U.S.C. § 7413(a)(1) and (3). The authority to issue this Notice has been delegated to the Regional Administrator of EPA Region 5, and redelegated to the Director, Air and Radiation Division.

STATUTORY AND REGULATORY BACKGROUND

Prevention of Significant Deterioration Requirements

1. When the Act was passed in 1970, Congress exempted existing facilities, including the coal-fired power plants that are the subject of this Notice, from many of its requirements. However, Congress also made it quite clear that this exemption would not last forever. As the United States Court of Appeals for the D.C. Circuit explained in *Alabama Power v. Costle*, 636 F.2d 323, 400 (D.C. Cir. 1979), "[t]he statutory scheme intends to 'grandfather' existing industries; but...this is not to constitute a perpetual immunity from all standards under the PSD program." Rather, the Act requires grandfathered facilities to install modern pollution control

devices whenever the unit is proposed to be modified in such a way that its emissions may increase.

2. On June 19, 1978, EPA promulgated regulations pursuant to Part C of Title I of the Act. 43 Fed. Reg. 26403 (June 19, 1978).

3. The Prevention of Significant Deterioration (PSD) provisions of Part C of Title I of the Act require preconstruction review and permitting for modifications of stationary sources in attainment/unclassifiable areas. *See* 42 U.S.C. §§ 7470-7492. Pursuant to applicable regulations, if a major stationary source located in an attainment area is planning to make a major modification, then that source must obtain a PSD permit before beginning actual construction. *See* 40 C.F.R. § 52.21(i). To obtain this permit, the source must, among other things, undergo a technology review and apply Best Available Control Technology (BACT); perform a source impact analysis; perform an air quality analysis and modeling; submit appropriate information; and conduct additional impact analyses, as required.

4. On August 7, 1980, EPA determined that the Indiana PSD rules did not satisfy the Act's requirements and disapproved them under Section 110(a)(3) of the Act, 42 U.S.C. § 7410(a)(3). At that same time, EPA incorporated the provisions of 40 C.F.R. § 52.21(b) through (w) into the Indiana State Implementation Plan (SIP), 45 Fed. Reg. 52676, 52741, as amended at 46 Fed. Reg. 9580 and codified at 40 C.F.R. § 52.793. On January 29, 1981, EPA delegated to the Indiana Department of Environmental Management (IDEM) the partial authority to review and process PSD permit applications, and to implement the federal PSD program. 46 Fed. Reg. 9580, 9583. On March 23, 2003, EPA conditionally approved into the Indiana SIP 326 IAC 2-2, which contains Indiana's PSD regulations. 68 Fed. Reg. 9892, 40 C.F.R. § 52.770(c)(147). On May 20, 2004, EPA approved these rules into the Indiana SIP. 69 Fed. Reg. 29071, 40 C.F.R. § 52.770(c)(165). On June 18, 2007, EPA partially approved revisions to 326 IAC 2-2. 72 Fed. Reg. 33395.

5. The regulations in effect at the time of the projects identified in Appendices A through C are the relevant regulations for the purposes of this Notice.

6. 40 C.F.R. § 52.21(i)(1) provides that "no stationary source or modification to which the requirements of paragraphs (j) through (r) of this section apply shall begin actual construction without a permit that states that the stationary source or modification would meet those requirements." See also 326 IAC 2-1-2.

7. 40 C.F.R. § 52.21(i)(2) provides that "the requirements of paragraphs (j) through (r) of this section apply to any major stationary source and any major modification with respect to each pollutant subject to regulation under the Act" See also 326 IAC 2-2.

8. The PSD regulations define "major stationary source" as: "Any of the following stationary sources of air pollutants which emits, or has the potential to emit, 100 tones per year or more of any pollutant subject to regulation under the Act: Fossil fuel-fired steam electric plants of more than 250 million British Thermal Units per hour heat input . . ." 40 C.F.R. § 52.21(b)(1)(i)(a). See also 326 IAC 2-2-1(gg).

9. The PSD regulations define “major modification” as “any physical change in or change in the method of operation of a major source that would result in a significant net emissions increase” of a regulated pollutant. 40 C.F.R § 52.21(b)(2)(i). See also 326 IAC 2-2-1(ee).

10. The PSD regulations state that “net emissions increase means the amount by which the sum of the following exceeds zero: (a) The increase in emissions from a particular physical change or change in the method of operation at a stationary source as calculated pursuant to paragraph (a)(2)(iv) of this section; and (b) Any other increases or decreases in actual emissions at the major stationary sources that are contemporaneous with that particular change and are otherwise creditable.” 40 C.F.R § 52.21(b)(3)(i). See also 326 IAC 2-2-1(jj).

11. The PSD regulations state that: “Significant means, in reference to a net emissions increase or the potential of a source to emit any of the following pollutants, a rate of emission that would equal or exceed any of the following rates: ... Nitrogen oxides (NO_x): 40 tpy; Sulfur dioxide (SO₂): 40 tpy; Particulate Matter (PM): 25 tpy of particulate matter emissions; 15 tpy of PM₁₀ emissions ...” 40 C.F.R. § 52.21(b)(i)(23)(i). See also 326 IAC 2-2-1(xx).

12. 40 C.F.R. 40 C.F.R § 52.21(j) requires that: 1) a major stationary source or major modification meet all applicable emissions limitations under the applicable State Implementation Plan along with any standards of performance under 40 C.F.R. Parts 60 and 61; 2) any new major stationary sources apply best available control technology for each pollutant subject to regulation under the Act that it would have the potential to emit in significant amounts; and 3) a major modification which would result in a significant net emissions increase apply best available control technology for each pollutant subject to regulation under the Act. See also 326 IAC 2-1-2.

Non-Attainment New Source Review Requirements

13. The Non-attainment New Source Review (NNSR) provisions of Part D of Title I of the Act require preconstruction review and permitting for modifications of stationary sources located in non-attainment areas. *See* 42 U.S.C. §§ 7501-15. Prior to the effective date of the 1990 Clean Air Act Amendments, P. Law 101-549, effective November 15, 1990, the NNSR provisions were set forth at 42 U.S.C. §§ 7501-7508. Pursuant to applicable regulations, if a major stationary source located in a non-attainment area is planning to make a major modification, that source must obtain a NNSR permit before beginning actual construction. To obtain this permit, the source must, among other things, apply the Lowest Achievable Emission Rate (LAER).

14. On February 16, 1982, EPA approved Indiana’s NNSR rules, which had been incorporated into Section 19 of the Indiana Air Pollution Code (APC 19). 47 Fed. Reg. 6621. APC 19 governed the preconstruction review of modifications of facilities in non-attainment areas that occurred prior to December 6, 1994, when subsequent regulations went into effect. The definitions applicable to APC 19 were codified at 325 Indiana Administrative Code (IAC) 1-1. 46 Fed. Reg. 54941 (November 15, 1981).

15. On October 7, 1994, EPA approved 326 IAC 2-1 and 2-3 as SIP revisions replacing APC 19. 59 Fed. Reg. 51108. Included in the NNSR SIP revisions were changes to the definitions previously codified at 325 IAC 1-1, now codified at 326 IAC 2-3-1.

16. Prior to December 6, 1994 in a non-attainment area, the Indiana SIP prohibited construction or modification if it would have resulted in a potential increase in emissions of 25 tons per year or more of any regulated pollutant, unless the owner or operator of the facility first obtained a permit in accordance with NSR requirements, which included a requirement to apply LAER. See APC 19, Sections 2 and 8.

17. On and after December 6, 1994 in a non-attainment area, the Indiana SIP prohibited construction or modification if it would result in a "significant net emissions increase" of 40 tons per year or more of SO₂, 40 tons per year or more of NO_x or 40 tons per year or more of PM unless the source complied with the provisions of 326 IAC 2-1 and 2-3. This included the application of LAER and the offsetting of such emissions with a reduction of emissions of the same pollutant from one existing source or a combination of existing sources.

New Source Performance Standards

18. Under Section 111 of the Act, 42 U.S.C. § 7411, the Administrator promulgated the New Source Performance Standards (NSPS) General Provisions, at 40 C.F.R. Part 60, Subpart A, and the "Standards of Performance for Electric Utility Steam Generating Units for Which Construction is Commenced After September 18, 1978," codified at 40 C.F.R. Part 60, Subpart Da. Subpart Da applies to each electric utility steam generating unit capable of combusting more than 73 megawatts (250 million Btu per hour) heat input of fossil fuel (alone or in combination with any other fuel). 40 C.F.R. § 60.40a(a)(1).

19. 40 C.F.R. § 60.14(a) provides that "...any physical or operational change to an existing facility which results in an increase in the emission rate to the atmosphere of any pollutant to which a standard applies shall be considered a modification within the meaning of section 111 of the Act. Upon modification, an existing facility shall become an affected facility for each pollutant to which a standard applies and for which there is an increase in the emission rate to the atmosphere."

Title V Requirements

20. Section 502(d)(1) of the Act, 42 U.S.C. § 7661a(d)(1) requires each State to develop and submit to EPA an operating permit program which meets the requirements of Title V. Pursuant to Appendix A of 40 C.F.R. Part 70. On November 14, 1995 (60 Fed. Reg. 57188), EPA granted Indiana interim approval of its program, with final approval on July 30, 2001 (66 Fed. Reg. 39293). Indiana's Title V operating permit program is currently codified at 326 IAC 2-7.

21. Section 503 of the CAA, 42 U.S.C. § 7661b, sets forth the requirement to timely submit an application for a permit, including information required to be submitted with the application.

22. Section 504(a) of the CAA, 42 U.S.C. § 7661c(a), requires that each Title V permit include enforceable emission limitations and standards, a schedule of compliance, and other conditions necessary to assure compliance with applicable requirements, including those contained in a state implementation plan. 42 U.S.C. § 7661c(a).

23. 40 C.F.R. § 70.1(b) provides that: “All sources subject to these regulations shall have a permit to operate that assures compliance by the source with all applicable requirements.”

24. 40 C.F.R. § 70.2 defines “applicable requirement” to include “(1) Any standard or other requirement provided for in the applicable implementation plan approved or promulgated by EPA through rulemaking under title I of the Act that implements the relevant requirements of the Act, including revisions to that plan promulgated in part 52 of this chapter . . .”

25. 40 C.F.R. § 70.3 provides that the requirements of Part 70 apply to any major source located in a state that has received whole or partial approval of its Title V program.

26. 40 C.F.R. § 70.5(a) requires the owner or operator of a Part 70 source to submit a timely and complete permit application.

27. 40 C.F.R. § 70.5(a)(2) defines “complete application” to include information that is “sufficient to evaluate the subject source and its application and to determine all applicable requirements.”

28. 40 C.F.R. § 70.5(b) provides that: “Any applicant who fails to submit any relevant facts or who has submitted incorrect information in a permit application shall, upon becoming aware of such failure or incorrect submittal, promptly submit such supplementary facts or corrected information. In addition, an applicant shall provide additional information as necessary to address any requirements that become applicable to the source after the date it filed a complete application but prior to release of a draft permit.”

Indiana’s Title V Requirements

29. On November 14, 1995 (60 Fed. Reg. 57188), EPA granted Indiana interim approval of its Title V program. EPA granted final approval to Indiana’s Title V program on November 30, 2001 (66 Fed. Reg. 62969, December 4, 2001). See 40 C.F.R. Part 70, Appendix A. Indiana’s Title V program became effective on that date. See also 61 Fed. Reg. 39597.

30. The Indiana regulations governing the Title V permitting program are codified at 326 IAC 2-7. Title V requirements are federally enforceable pursuant to Section 113 (a)(3), 42 U.S.C. § 7413(a).

31. 326 IAC 2-7-2 specifies the sources subject to 40 C.F.R. Part 70 requirements. 326 IAC 2-7-5 states that the content of the Part 70 permit include operational requirements and limitations that assure compliance by the source with all applicable requirements.

32. 326 IAC 2-7-3 requires that no source subject to 40 C.F.R. Part 70 requirements may operate without a permit as specified in the Act.

33. 326 IAC 2-7-4 requires the owner or operator of a Part 70 source to submit a timely and complete permit application for a Title V permit with the required information specified in this rule.

34. 326 IAC 2-7-4(b) states that "Any applicant who fails to submit any relevant facts or who has submitted incorrect information in a Part 70 permit application shall, upon becoming aware of such failure or incorrect submittal, promptly submit such supplementary facts or corrected information. In addition, an applicant shall provide additional information as necessary to address any requirements that become applicable to the source after the date it filed a complete application but prior to release of a draft Part 70 permit."

FACTUAL BACKGROUND

35. IPL is incorporated in Indiana.

36. IPL is a "person," as that term is defined in Section 302(e) of the Act, 42 U.S.C. § 7602(e).

37. At all times relevant to this Notice, IPL or its predecessors were the owners and/or operators of the Eagle Valley, Harding Street and Petersburg Generating Stations.

38. During all times relevant to this Notice, the aforementioned three facilities emitted or had the potential to emit at least 100 tons per year of each of NO_x, SO₂, and PM.

The Harding Street (formerly Stout) Station

39. IPL owns and operates the Harding Street Station in Indianapolis, Indiana. This station consists of three coal-fired steam generating boilers used to produce electricity provided to the grid. Units 5, 6, and 7 are coal-fired boilers which began operation approximately in 1958, 1961, and 1973, respectively.

40. At all times relevant to this Notice, the Harding Street Station has been located in an area that was classified as attainment or unclassifiable for NO_x and PM₁₀, and as non-attainment for ozone. From 1978 to 1990, the Harding Street Station was located in an area classified as non-attainment for SO₂. From 1991 to 1996, the Harding Street Station was located in an area partially classified as non-attainment for SO₂.

41. The Harding Street Station is a "fossil fuel-fired steam electric plant of more than 250 million British thermal units per hour" that emits or has the potential to emit 100 tons per year or more of any regulated NSR pollutant, as defined in 40 C.F.R. § 52.21(b)(50). Therefore, the Harding Street Station constitutes a "major stationary source" under 40 C.F.R. § 52.21 and 326 IAC 2-2 (PSD); 326 IAC 2-1 and 2-3; (Non-attainment NSR); and 40 C.F.R. Part 70 and 326 IAC 2-7 (Title V). Each of the above-listed units at the Harding Station had, prior to October 2, 1994, the potential to emit 25 tons per year or more of any regulated pollutant under APC 19. In addition, each of the above-listed units at the Harding Station constitutes an "electric utility steam generating unit," as defined at 40 C.F.R. § 60.41a.

42. IPL completed physical changes and/or changes in the method of operation at its Harding Street Generating Station Units 5, 6, and 7, as described in the attached Appendix A.

The Eagle Valley (formerly Pritchard) Station

43. IPL owns and operates the Eagle Valley Station in Martinsville, Indiana. This station consists of four coal-fired steam generating boilers used to produce electricity provided to the grid. Units 3, 4, 5, and 6 are coal-fired boilers which began operation between 1952 and 1956.

44. At all times relevant to this Notice, the Eagle Valley Station has been located at in an area that was classified as attainment or unclassifiable for NO_x, ozone, SO₂ and PM.

45. The Eagle Valley Station is a “fossil fuel-fired steam electric plant of more than 250 million British thermal units per hour.” Therefore, the Eagle Valley Station constitutes a “major stationary source” within the meaning of 40 C.F.R. § 52.21(b)(1)(i)(a); and a “major emitting facility” within the meaning of Section 169(1) of the Act, 42 U.S.C. § 7479(1). Each of the above-listed units at the Eagle Valley Station constitutes an “electric utility steam generating unit,” as defined at 40 C.F.R. § 60.41a.

46. IPL completed physical changes and/or changes in the method of operation at its Eagle Valley Generating Station Units 3, 4, and 6 as described in the attached Appendix B.

The Petersburg Station

47. IPL owns and operates the Petersburg Station in Petersburg, Indiana. The station consists of four coal-fired steam generating boilers used to produce electricity provided to the grid. Units 1, 2, 3, and 4 are coal-fired boilers which began operation between 1967 and 1986.

48. At all times relevant to this Notice, the Petersburg Station has been located at in an area that was classified as attainment or unclassifiable for NO_x, ozone, SO₂ and PM.

49. The Petersburg Station is a “fossil fuel-fired steam electric plant of more than 250 million British thermal units per hour.” Therefore, the Petersburg Station constitutes a “major stationary source” within the meaning of 40 C.F.R. § 52.21(b)(1)(i)(a); and a “major emitting facility” within the meaning of Section 169(1) of the Act, 42 U.S.C. § 7479(1). Each of the above-listed units at the Petersburg Station constitutes an “electric utility steam generating unit,” as defined at 40 C.F.R. § 60.41a.

50. IPL completed physical changes and/or changes in the method of operation at its Petersburg Generating Station Units 1 through 4 as described in the attached Appendix C.

VIOLATIONS

Violations of Prevention of Significant Deterioration Requirements

51. The physical changes and/or changes in the method of operation described in the attached Appendices A through C caused a significant net emissions increase, as defined at 40 C.F.R. §§ 52.21(b)(3)(i) and (b)(23)(i), of SO₂, NO_x, and/or PM. See also 326 IAC 2-1-1(jj) and (yy).

52. The projects described in Appendices A through C each constituted a "major modification," as that term is defined at 40 C.F.R. § 52.21(b)(2)(i). See also 326 IAC 2-1-1(ee).

53. For each the modifications described in Appendices A through C, IPL failed to obtain a PSD permit as required by 40 C.F.R. § 52.21(i)(1). See also 326 IAC 2-1-2(c).

54. None of the modifications described in Appendices A through C fall within the exemptions to the definition of "major modification" found at 40 C.F.R. § 52.21(b)(2)(iii). See also 326 IAC 2-1-1.

55. IPL violated and continues to violate Section 165(a) of the Act, 42 U.S.C. § 7475(a), and 40 C.F.R. § 52.21(i)(1) and/or 326 IAC 2-1-2(c) by constructing major modifications to existing major sources at the above-listed facilities without applying for or obtaining PSD permits and operating the modified facilities without installing the best available control technology or going through PSD review, and installing appropriate emission control equipment in accordance with a BACT analysis.

56. Each of the violations exists from at least the date of the start of construction of each modification and continues until the appropriate PSD permit is obtained and the necessary pollution control equipment is installed and operated.

Violations of Non-Attainment New Source Review Requirements

57. The physical changes and/or changes in the method of operation described in the attached Appendix A, caused a significant net emissions increase, as defined by 326 IAC 2-3-1, of SO₂. In addition, they resulted in potential increases in emission of 25 tons per year or more of any regulated pollutant under APC 19, Section 2.

58. The projects identified in Appendix A each constituted a "major modification," as that term is defined by 326 IAC 2-3-1 and APC 19.

59. For the modifications identified in Appendix A, IPL did not install LAER for SO₂ or offset the significant net emissions increase of SO₂ for each of those projects.

60. IPL violated and continues to violate 326 IAC 2-3 and APC 19 by constructing a major modification on Units 5, 6, and/or 7 without, among other things, applying LAER for SO₂ and obtaining appropriate offsets, in violation of 326 IAC 2-1 and APC 19, Section 8.

61. Each of the violations exists from at least the date of the start of construction of each modification and continues until the appropriate NNSR permit is obtained and the necessary pollution control equipment is installed and operated.

Violations of the Standards of Performance for Electric Utility Steam Generating Units

62. IPL made physical and/or operational changes as defined by 40 C.F.R. 60.14 at the Harding Street Generating Station when it replaced the low and high temperature reheater tube assemblies and/or made other modifications at its Boiler Unit 5 in or around November 2006 that resulted in an increase in net generating capability and an increase in hourly emissions rate of PM, SO₂, and/or NO_x.

63. IPL violated and continues to violate NSPS, Subpart Da (40 C.F.R. 60.40b) by modifying the above listed facility without installing the necessary pollution control technology to achieve, demonstrate, and maintain compliance with the applicable emission limitation under NSPS, Subpart Da.

Violations of the Title V Requirements

64. Each of the facilities identified above is a "major source" as defined in Section 501(2) of the Act, 42 U.S.C. § 7661(2), 40 C.F.R. § 70.2 and 326 IAC 2-7.

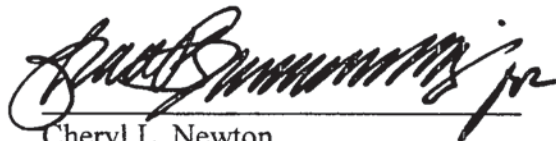
65. IPL has failed to submit timely and complete Title V permit applications for the Harding Street, Eagle Valley, and Petersburg Generating Stations with information pertaining to the modifications identified in Appendices A through C and with information concerning all applicable requirements, including, but not limited to, the requirement to apply, install and operate BACT or LAER for NO_x, SO₂, and/or PM, at the plants and also failed to supplement or correct the Title V permit applications for these plants in violation of Sections 502, 503 and 504 of the Act, 42 U.S.C. §§ 7661a, 7661b, and 7661c; the regulations at 40 C.F.R. Part 70, including, but not limited to, 40 C.F.R. §§ 70.1(b), 70.5(a), (b) and (c), 70.6 and 70.7(b); and the Indiana Title V provisions at 326 IAC 2-7.

ENFORCEMENT AUTHORITY

Section 113(a) (1) of the Act, 42 U.S.C. § 7413(a)(1), provides that at any time after the expiration of 30 days following the date of the issuance of a Notice, the Administrator may, without regard to the period of violation, issue an order requiring compliance with the requirements of the state implementation plan or permit, issue an administrative penalty order pursuant to Section 113(d), or bring a civil action pursuant to Section 113(b) for injunctive relief and/or civil penalties.

Section 113(a)(3) of the Act, 42 U.S.C. § 7413(a)(3), provides in part that if the Administrator finds that a person has violated, or is in violation of any requirement or prohibition of any rule...promulgated...under...[Title I or Title V of the Act], the Administrator may issue an administrative penalty order under Section 113(d), issue an order requiring compliance with such requirement or prohibition, or bring a civil action pursuant to Section 113(b) for injunctive relief and/or civil penalties.

Dated: 9/29/09

A handwritten signature in black ink, appearing to read "Cheryl L. Newton", written over a horizontal line.

Cheryl L. Newton
Director
Air and Radiation Division

Appendix A: Harding Street Generating Station

Between 1991 and 2006, various physical changes and/or changes in the method of operation were made at the Harding Street Station. These changes include, but are not limited to, the following projects:

- Unit 5 – upgrade of the induced draft fan (begun June 19, 1992), at a cost of \$2,117,936.
- Unit 5 – replacement of the low and high temperature reheater tube assemblies (begun November 3, 2006), at a cost of \$764,701.
- Unit 6 – upgrade of the induced draft fan (begun November 24, 1991), at a cost of \$2,583,693.
- Unit 7 – replacement of the economizer (begun May 19, 1994), at a cost of \$2,420,986.
- Unit 7 - Replacement of the boiler water wall nose tubes in Unit 7 with new tube sections (begun February 25, 2005), at a cost of \$1,275,756.

Appendix B: Eagle Valley Generating Station

Between 1988 and 2002, various physical changes and/or changes in the method of operation were made at the Eagle Valley Station. These changes include, but are not limited to, the following projects:

- Unit 3 – boiler optimization, including replacement of waterwall headers and connections, superheater pendants (begun November 4, 1990), at a cost of \$2,657,639.
- Unit 4 – replacement of the waterwall and superheater tubes (begun June 6, 1988), at a cost of \$4,370,336.
- Unit 4 – replacement of the economizer and superheater tubes (begun January 10, 2002), at a cost of \$1,759,707.
- Unit 6 – boiler optimization, including replacement of superheater assemblies, economizer assemblies and sidewall tubes (begun April 24, 1991), at cost of \$2,866,233.

Appendix C: Petersburg Generating Station

Between 1986 and 2004, various physical changes and/or changes in the method of operation were made at the Petersburg Station. These changes include, but are not limited to, the following projects:

- Unit 1 – replacement of superheat pendant platen assemblies and front reheat assemblies and concurrent upgrade of several sections of the boiler (begun October 22, 1991), at a cost of \$1,460,114.
- Unit 2 – replacement of the economizer and associated soot blowers (begun June 3, 1986), at a cost of \$2,422,350.
- Unit 2 – boiler upgrade including replacement of lower slope tubes, west coolant tubes (begun October 5, 2003), at a cost of \$3,051,213.
- Unit 3 – replacement of the combustion air heaters (begun May 1, 1993), at a cost of \$991,523.
- Unit 3 – replacement of the reheater (begun February 28, 2004), at a cost of \$3,310,595.
- Unit 4 – replacement of the economizer and front heat reheat pendants (begun September 21, 2001) at a cost of \$4,962,379.

CERTIFICATE OF MAILING


I, Loretta Shaffer, certify that I sent a Notice of Violation and Finding of Violation, No. EPA-5-08-IN-22, by Certified Mail, Return Receipt Requested, to:

Ann Murtlow, President and CEO
Indianapolis Power & Light Company
1 Monument Circle
Indianapolis, Indiana 46204

I also certify that I sent a copy of the Request to Provide Information by first class mail to:

Phil Perry, Chief
Office of Enforcement
Indiana Department of Environmental Management
100 North Senate Avenue
P.O. Box 6015
Indianapolis, IN 46206-6015

On the 29 day of Sept, 2009



Loretta Shaffer, Administrative
Program Assistant

CERTIFIED MAIL RECEIPT NUMBER: 7001 0320 0006 0192 1567